

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, March 1, 2021
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentation
 - Fire Captain Jasper Rogers/5 Year Longevity
5. Consent Agenda
 - a.) Approval of February 1, 2021 Council Minutes
 - b.) Resolution Adopting the Program for Public Information (PPI) for CRS
 - c.) Amendment to the Personnel Policy (Article XI Section 1-Holidays)
 - d.) Government Education Access Channels Committee FY 21-22 Budget
6. Items Removed from the Consent Agenda
7. Planning
 - a.) Schedule Public Hearing: Text Amendment – Sec. 42-502. Temporary uses; Sec.18-11 Outdoor events and gatherings
 - b.) Schedule Public Hearing: Text Amendment – Chapter 38. Subdivisions and Chapter 42. Zoning
8. New Business
 - a.) Fund Balance Allocation Review
 - b.) Request for Qualifications/Proposals for Engineering & Architectural Design Services for a Police Station, Fire & EMS Substation
 - c.) Hurdle Street Beach Access Parking
9. Reports/General Comments from Town Manager
10. Reports/General Comments from Town Attorney
11. Reports/General Comments from Town Council
12. Public Comment
13. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman David Hines, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell and Police Chief Joel Johnson

Kitty Hawk Town Council Minutes: March 1, 2021

Page 2

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence, the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

MPT Garriss made a motion, seconded by Councilwoman McClean, to approve the agenda. The vote was unanimous, 5-0.

4. PRESENTATION

- **Fire Captain Jasper Rogers/5 Year Longevity** – Fire Chief Talley presented Captain Rogers with his 5-year service plaque.

5. CONSENT AGENDA

a.) **Approval of February 1, 2021 Council Minutes.** *(An approval of the consent agenda will approve these minutes.)*

b.) **Resolution Adopting the Program for Public Information (PPI) for CRS.** The PPI plan sets target audiences and messages for public outreach and education on flood issues. The plan is a part of Kitty Hawk's credited CRS program. *(An approval of the consent agenda will adopt this resolution.)*

c.) **Amendment to the Personnel Policy (Article XI Section 1-Holidays).** Staff is suggesting Martin Luther King Day be added to the observed holidays by the town. *(An approval of the consent agenda will adopt this amendment to the Personnel Policy.)*

d.) **Government Education Access Channels Committee FY 21-22 Budget.** The committee is requesting that the town council approve their recommended budget in the amount of \$375,025.55. *(An approval of the consent agenda will approve this budget.)*

Councilman Pruitt made a motion, seconded by Councilwoman McClean, to approve the consent agenda. The vote was unanimous, 5-0.

6. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

7. PLANNING

a.) **Schedule Public Hearing: Text Amendment – Sec. 42-502. Temporary uses; Sec.18-11 Outdoor events and gatherings. The proposed text amendments will specify requirements**

Kitty Hawk Town Council Minutes: March 1, 2021
Page 3

for temporary signage associated with temporary uses and outdoor gatherings/events. It is recommended the hearing be held during the April 6, 2021 council meeting.

MPT Garriss made a motion to set a public hearing at the town council meeting on April 6, 2021 to consider the proposed text amendment to amend subsection 42-502 temporary uses and 18-11 outdoor event and gatherings. Councilwoman McClean seconded and it passed unanimously, 5-0.

b.) Schedule Public Hearing: Text Amendment – Chapter 38. Subdivisions and Chapter 42. Zoning. Multiple proposed text amendments will make chapters 38 and 42 consistent and compliant with the new N.C.G.S. Chapter 160D. It is recommended the hearing be held during the April 6, 2021 council meeting.

Councilman Pruitt made a motion to set a public hearing at the town council meeting on April 6, 2021 to consider the proposed text amendments to amend Chapters 38 and 42 to be consistent and compliant with NCGS 160D. Councilman Hines seconded and it passed unanimously, 5-0.

8. NEW BUSINESS

a.) Fund Balance Allocation Review

Manager Stewart reviewed the following memo with council.

Proposal: Review and allocate General Fund Balance as deemed appropriate by Town Council.

Background Information: The Town of Kitty Hawk periodically reviews the General Fund Balance levels to ensure appropriate use of taxpayer dollars and to ensure an appropriate level of fiscal reserves.

Staff Analysis: The Town of Kitty Hawk Town Council was presented the FY 2019-2020 audit in accordance with General Statutes.

The FY 19-20 (most recent) audit that was presented to the Town Council in November 2020 identified and accounted for the **restricted emergency reserve** of \$3,500,000 dollars as required by Town Resolution. The funds are only to be utilized for emergencies or unanticipated revenues/expenditures by the approval of Town Council.

In addition to the emergency reserve the audit also identified an **unrestricted reserve balance** (accumulated unexpended funds from previous fiscal years) in the amount of \$4,079,047. These funds have been historically utilized to balance the budget or to pay for unexpected expenditures not identified in the current budget year. Over the past five years none of these funds have been utilized to balance the budget at year end. However, maintaining an adequate balance in the unrestricted reserve provides for budget flexibility throughout the year and therefore a reasonable balance should be maintained. A balance of \$1,500,000 in the unrestricted reserve is recommended by Staff to ensure adequate budget flexibility for the Town.

Staff recommendation to Town Council is to determine the best use of the unrestricted reserve in excess of the \$1,500,000 balance as recommended by Staff and allocate these funds for future projects and capital purchases. The total amount of funds available for allocation is \$2,579,047.

Hearing no questions or comments, **Mayor Perry made a motion to put \$500,000 into the fire apparatus fund and buy a much-needed fire truck.** He added the state is now doing inspections on a five-year schedule and we are due this year. It is a 31-year-old truck that is costing the town a lot of money. Three pumpers are needed to meet state inspection requirements. If those are not met, then it affects every homeowner's fire insurance rating. It is important to put money there. **MPT Garriss seconded and it was unanimously approved, 5-0.**

Perry: *I also motion to put \$2 million into the police station fund. Our police station, if you have not been paying attention, has been flooded several times especially during Hurricanes Irene and Michael. It is in very poor shape and is in a flood zone. Building a station also gives us the opportunity to work with the county to put an EMS station there as well as a place to put a fire truck. Again, the state is requiring we have a second station up north. This is not enough to cover it, but it gets us well into the ballpark.* **Councilman Hines seconded and it passed unanimously 5-0.**

b.) Request for Qualifications/Proposals for Engineering & Architectural Design Services for a Police Station, Fire & EMS Substation

Manager Stewart reviewed this Request for Qualifications and **MPT Garriss made a motion to proceed for proposals. Councilwoman McClean seconded it and it was unanimously approved, 5-0.**

c.) Hurdle Street Beach Access Parking

Perry: *Next we have some discussion I want to bring to people's attention. The Recreation Committee's discussion of using a town owned paper street named Hurdle for public beach access has met considerable push back by adjacent property owners. In the interest of full disclosure to the citizens of Kitty Hawk, I offer the following answers to many of the concerns raised by property owners.*

Central to almost all of the letters received is concern that paving Hurdle Street would exacerbate flooding in the local area. Most of the flooding they reference occurred prior to beach nourishment. That flooding was extensive throughout town, not just the local area. In fact, the only serious flooding since nourishment was from a heavy rain during Hurricane Matthew. Additionally, past flooding referenced does not take into account the fact that pump out piping using portable pumps has been installed and was used successfully during the Matthew event. If Hurdle Street were being considered a street, then asphalt would be appropriate. However, a properly engineered parking lot can and should use pervious pavement. Such pavement is allowed in the Town of Kitty Hawk. Pervious pavement permits drainage without adding to existing flooding concerns.

The next concern was width of the beach across from the Hurdle Street area. That argument ignores the forthcoming re-nourishment planned in 2022. It also leaves out the fact that people

Kitty Hawk Town Council Minutes: March 1, 2021

Page 5

still found ways to use the beach where beach and road met in times prior to nourishment. Beach nourishment has made that point moot.

An increase in vehicle crashes was raised several times. Most vehicle accidents occur on 158 at intersections. Very few occur on NC 12 and adding another beach access at Hurdle Street is unlikely to increase that number.

Concern that public beach access at or near Hurdle Street would be damaging to the existing dune system. Anything the town installed would be a CAMA approved crosswalk designed to protect dunes, unlike what currently exists.

There was much spoken about homeowners installing sand fencing to restore the dune system. However, when the town received fencing money and installed fence on the dune across from Hurdle, the owner made public works remove the properly installed fencing. There has been no fencing installed at that location since early 2000. Town citizens might ask what the property owner was thinking at the time.

A concern that the property across from Hurdle Street is privately owned and would not be sold to the town would cause an imminent domain issue. The town owns two side-by-side lots approximately 150 feet north of Hurdle Street. A properly engineered parking lot plan could provide safe beach across the dune without having to acquire private property.

Several objectors accept the need for public access to our beach but felt it should be anywhere but at Hurdle Street. For example, quote "parking at east White Street and Poseidon is a better location for visitors". Unquote. Another person sent pictures of various streets north of east Kitty Hawk Road with the statement, quote "take a drive and look at all these streets with public access and crosswalks at the end of them. These areas need updating, organizing and improvement". Unquote. In other words folks, any neighborhood in Kitty Hawk is acceptable for public access to the public beach except my neighborhood.

Finally, the owner of the old Coast Guard Station seems to think that a variance granted allowing an oversized building to be placed on an undersized lot meant the town does not own or have the right to use paper street Hurdle. There are indications that other property owners may be staking public property as private. This requires town action to establish who owns what with survey and clear markings. Citizens of Kitty Hawk, this is your land, these people are using it as if they own it. They do not. You need to let your council know if you agree. They have certainly been vocal in objection to public use.

Having considered the foregoing issue, I now present the following motion to council. The town manager shall add to the 2021/22 budget, funding to conduct a survey of paper street Hurdle. The survey shall establish town owned property with clear marking of boundary. Further, any improperly encroached signage indicating private property, no trespass, shall be removed from established public property. Does that have a second? Councilwoman McClean seconded.

Kitty Hawk Town Council Minutes: March 1, 2021

Page 6

Garriss: *This has been a heated issue for some time. Folks have been coming out very loyally and I appreciate them coming and speaking. I think our money would be better spent looking at all the paper streets we have in Kitty Hawk and looking at all our parking areas. Any that need to be improved, we improve them. Do we have a parking problem in Kitty Hawk for beach goers? Yes, sir, we do. We most definitely do. I would go along with possibly amending your motion to include paper streets and not singling out Hurdle Street. I think we have a lot of bigger issues on our plate. Two of them Mr. Mayor you just spoke about earlier that we need to spend our money on besides this.*

Perry: *Anyone else?*

McClean: *Through the years Kitty Hawk has seen a lot of growth and a lot of the neighborhoods are not what they used to be years ago. Some of the gentlemen that used to live in my neighborhood tell stories that in their younger days, newlyweds, raising their kids they would have races out to the mailbox in their undershorts to see if they could get the Sunday paper without a car going down Kitty Hawk Road. And we know today that does not happen. So, things change in Kitty Hawk.*

I have lived here almost 25 years. Before I moved here there was advice from people in town to consider paving Hurdle Street. That was in 1990. I think Kitty Hawk has had enough growth that I think it is time we start looking at all the paper streets.

If an unhappy mom and her four kids pull up in a van into my driveway and says Miss Lynne, you must do something about the parking. My kids want to go to the beach and there is not a parking spot and I live here 7 days a week, 52 weeks a year and have lived here since I was four years old. The town has changed and we need parking. I think that mom deserves to take her kids to the beach as well as our visitors deserve to be able to go to the beach and have access to the beach that is safe for them. I think we need to start looking at finding every spare parking place in Kitty Hawk that we can on the east side of 158.

Pruitt: *I am definitely for surveying these streets. I received an email to go walk the area, so I parked in between Stack 'Em High and the building next door because I knew for sure that is where it was. I went through the section of woods and I was greeted by a "No Trespassing" sign so I immediately turned around and said I must not be in the right place. I came to the town hall to find out if I was really in the right place. I think we need to survey it. Whether there is more than just this one I am not sure but for right now this one is in the spotlight. Survey it so everybody has a clear understanding of what we are talking about. What is available and what is not.*

Perry: *The motion at this time is only dealing with one street. If you want to deal with future ones, we either have to change the motion or come back later and direct the manager on other places. I am not even sure what other places there are.*

McClean: *I think we need to get an identification of what paper streets we have left before we make this a wider scope. And I think Hurdle needs to be done.*

Kitty Hawk Town Council Minutes: March 1, 2021
Page 7

Hines: *Andy do we have an identification of the paper streets that the town owns? We clearly know this one is a paper street, but do we know where any others are?*

Perry: *I found this one when I was researching a completely different item. There are streets that do not go all the way to 158 and were never finished for whatever reason. That would be the closest thing you would have to a paper dead end at the present time. As far as a whole street this is the only one I know of.*

Garriss: *How does council feel about amending the motion to say streets?*

Hines: *I think all our parking needs to be looked at. Side streets and everywhere that people park. We need to look at the town overall. If they need to be cleaned up, I do not necessarily disagree with that, but we need to have a clear understanding of what we are cleaning up and what we are looking at. Have we done any title search on it?*

Perry: *No. Twice now we have been told by two different entities that three feet of Hurdle Street was taken into the private ownership of the owner of the old Lifesaving Station because of the variance. That is not true. Part of the reason for the motion is to establish who owns what.*

Hines: *Just because a variance was granted to the Lifesaving Station there is no land that is given. It is just a setback variance of the lot in question.*

Varnell: *Correct.*

McClean: *What we are looking for is go ahead and talk about the survey and ask the staff to please identify more parking places just by driving up and down Lindbergh Avenue. If you look to the oceanside, you have parking places on a lot of streets but if you look to the bypass side there is no parking on the same street. Couldn't we get four or six parking places on the west side of Lindbergh? We might be able to come up with some even for this season.*

Perry: *Okay but let's stay focused on what we are doing. If you want to do something extra we will come back to that but right now there is a motion and a second. Is there any other discussion before I call for a vote?*

Hines: *Should we amend the motion to include "streets" versus "street"?*

McClean: *This is for Hurdle Street.*

Pruitt: *But we do not know if there are streets. We are not saying survey it to put a parking lot in, we are surveying it so the town and the residents of this area and everybody knows exactly where this street is.*

Hines: *I agree.*

Kitty Hawk Town Council Minutes: March 1, 2021

Page 8

Perry: *All in favor of the motion?*

The vote was 4-1 with Garriss voting no stating it is because of the way the motion is worded.

9. TOWN MANAGER

Stewart: *I know the fire and police department staff will be appreciative of those excess funds we have built up over the years being used for the purchase of a new fire truck and police station. On behalf of the staff, we appreciate your support.*

10. TOWN ATTORNEY

There were no comments or reports from the attorney.

11. TOWN COUNCIL

Pruitt: *Once again I would like to thank the fire department for their quick response this weekend to the fire. And I would like to thank Jasper Rogers for his five years with the town. I certainly hope he continues to stay with the town. Andy and staff thank you for trying to work the best we can and move us forward on the fire truck as well as the new police station. Thank you for all your hard work.*

Garriss: *Same thing. Thanks to Andy and Mayor Perry for identifying those funds. We need to get the ball rolling like tomorrow on both projects. Thanks to the staff for everything you do and thanks to the citizens of Kitty Hawk.*

McClean: *Our first responders are essential and is one of the things that everybody has come to depend on. As far as I am concerned, we need to supply the people that do the work with the proper tools and I think a properly working, efficient, fire truck is about one of the best things we can do. And we know we have needed to get the police department to dry ground for a long time, so I am really happy about having those things being priorities right now. Thank you for everything you do.*

Hines: *I echo Lynne and everybody else. I believe our first responders need to be equipped with everything possible that the town can provide. For that matter, all staff. I am excited to see the police department get moving in the right direction.*

Perry: *We are in the process of trying to put a crossover from Kitty Hawk Park to a piece of conservation land that the Town of Kitty Hawk owns. When the conservation easement was set up there was a caveat for the same people that manage the west side of Kitty Hawk Road conservation land to manage the east side and they have tossed us a hiccup.*

Kitty Hawk Town Council Minutes: March 1, 2021

Page 9

The town has taken the initiative to find parking for people to access the conservation land. Now that we have done that these folks are beginning to say we do not want you to do this and that on land they supposedly have been managing for decades but really have not. The people managing it are the people who have been riding horses back there for decades. Clearing the land so they could ride and things of that nature.

At first, they did not want anything but pedestrians. They did not want horseshoes, which has been historical in Kitty Hawk forever and ever, long before they came on the scene. They do not want bikes, mountain bikes specifically, but if you go down Covered Bridge Road you will see a sign that says pedestrians and bicycles are allowed. Now they allow that on their property but do not want to allow it on our property. We have some issues. I am going to bring this to you later with whatever MOU they are ginning up.

The Recreation Committee is very enthusiastic about all the uses on the land and still maintain conservation. All the things we are wanting to do are basically within the management plan that the state does everywhere else.

12. PUBLIC COMMENT

Perry: *I will remind you we have a 3-minute time limit and unlike last time, where I did not hear the timer, I have people on both sides that are going to let me know and the clerk is going to jump up and down and do handstands.*

1. Jan Moore, 3713 Hallett St., Kitty Hawk, NC: *I just want to state that I live on Hallett Street and I am concerned about the beach access that is being considered. Still there is a lot of flooding in that area from rain and the beach nourishment has been really successful in a lot of places in Kitty Hawk and that one particular area, the beach is really narrow, not very wide. And I am worried that a lot of the houses on the east side of the street experience a lot of flooding with heavy rain between there and the condominiums. It is really wet at times and the road is flooded. Having ridden down a lot of the other public parking places, all of them as a matter of fact, I think that first of all we could get a lot of extra parking there if we just improved them. Let people park at an angle parking instead of parallel parking because you could get a lot more cars in the area. People could have more access to the beaches that way. So that is just all I wanted to say. Thank you.*

2. Peter Mantz, 3800 N. Virginia Dare Trail, Kitty Hawk, NC: *Good evening Mr. Mayor and council and congratulations to Captain Jasper. What a phenomenal experience to see that firsthand. I do not get a chance to see that very much.*

I am Pete Mantz and I am the owner of the old historic Lifesaving Station. So I am that guy.

Having said that, Ms. McClean, I really appreciate your comments. I mean they really hit home. I do not have four kids in the car, but I have two kids and that is all I can handle. I cannot handle

Kitty Hawk Town Council Minutes: March 1, 2021

Page 10

the four right now, but I will say that I know Kitty Hawk. Not as well as all of you but from a tourist, from somebody that visits this place since I was a young kid. I grew up in Norfolk, Virginia and my finest memories are jumping in a dune buggy and riding down from Sandbridge all the way down through Duck and camping out on Penny's Hill and that sort of thing and it has changed. It has changed tremendously.

I just retired from the Navy after 30 years. I bought the Kitty Hawk Lifesaving Station years ago as a dream come true and when we bought the property, we were under the assumption that there was a standoff there to the right side of the cottage that you see in the picture. It was not going to be used. In fact, we were told it was not going to be used and we enjoyed it for that reason because of the offsets and the value that it added to the property. At the time, as a young commander in the Navy, I could not afford that house. So, I had to scrimp, scrap, do whatever we could to rent the property out. To fix it up, to keep it restored, understanding its value to the community. Having said that it has been a long road. After about 10, 15 years of us owning it and trying to do whatever we can to bring the best possible renters we can to that property because we know what it brings and the value. And I will tell you we have a book that sits there in our house that time after time people write and say what a beautiful property, we love the grasslands all around it, the red fox that plays there, the animals that crawl around through there, the cats, the birds you name it. It is teaming with wildlife there.

We enjoyed it for that reason and so now that I am retired our goal is to come back here and retire permanently as a citizen and join you. It is bothersome to know that we are going to have some asphalt or pavers or whatever the committee determines is feasible there. That is a little bit disenchanting for me.

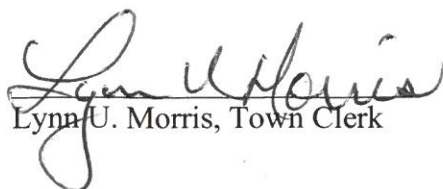
I just wanted to give you an example of who they are. Us versus them. I am they. I am that guy who is trying to make it better. We did everything we could to hold onto that property when times were tight. (3-minute timer beeps) I just thank you for your consideration and your time. I know it is an unenviable task that you are up against so thank you.

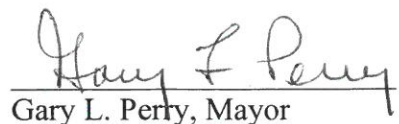
There were no further comments.

13. ADJOURN

Mayor Perry made a motion to adjourn until the April council meeting at which is Tuesday April 6th. MPT Garriss seconded and it passed unanimously, 5-0. Time was 6:43 p.m.

These minutes were approved at the April 6, 2021 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor